

93D CONGRESS } SENATE } REPORT
2d Session } No. 93-1252

ENERGY REORGANIZATION ACT OF 1974

OCTOBER 9, 1974.—Ordered to be printed

Mr. RIBICOFF, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 11510]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11510) to reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a Nuclear Energy Commission in order to promote more efficient management of such functions, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SEC. 1. *THIS ACT MAY BE CITED AS THE "ENERGY REORGANIZATION ACT OF 1974."*

DECLARATION OF PURPOSE

SEC. 2. (a) *The Congress hereby declares that the general welfare and the common defense and security require effective action to develop, and increase the efficiency and reliability of use of, all energy sources to meet the needs of present and future generations, to increase the productivity of the national economy and strengthen its position*

(1)

in regard to international trade, to make the Nation self-sufficient in energy, to advance the goals of restoring, protecting, and enhancing environmental quality, and to assure public health and safety.

(b) The Congress finds that, to best achieve these objectives, improve Government operations, and assure the coordinated and effective development of all energy sources, it is necessary to establish an Energy Research and Development Administration to bring together and direct Federal activities relating to research and development on the various sources of energy, to increase the efficiency and reliability in the use of energy, and to carry out the performance of other functions, including but not limited to the Atomic Energy Commission's military and production activities and its general basic research activities. In establishing an Energy Research and Development Administration to achieve these objectives, the Congress intends that all possible sources of energy be developed consistent with warranted priorities.

(c) The Congress finds that it is in the public interest that the licensing and related regulatory functions of the Atomic Energy Commission be separated from the performance of the other functions of the Commission, and that this separation be effected in an orderly manner, pursuant to this Act, assuring adequacy of technical and other resources necessary for the performance of each.

(d) The Congress declares that it is in the public interest and the policy of Congress that small business concerns be given a reasonable opportunity to participate, insofar as is possible, fairly and equitably in grants, contracts, purchases, and other Federal activities relating to research, development, and demonstration of sources of energy efficiency, and utilization and conservation of energy. In carrying out this policy, to the extent practicable, the Administrator shall consult with the Administrator of the Small Business Administration.

(e) Determination of priorities which are warranted should be based on such considerations as power-related values of an energy source, preservation of material resources, reduction of pollutants, export market potential (including reduction of imports), among others. On such a basis, energy sources warranting priority might include, but not be limited to, the various methods of utilizing solar energy.

TITLE I—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

ESTABLISHMENT

SEC. 101. There is hereby established an independent executive agency to be known as the Energy Research and Development Administration (hereinafter in this Act referred to as the "Administration").

OFFICERS

SEC. 102. (a) There shall be at the head of the Administration an Administrator of Energy Research and Development (hereinafter in this Act referred to as the "Administrator"), who shall be appointed from civilian life by the President by and with the advice and consent of the Senate. A person may not be appointed as Administrator within two years after release from active duty as a commissioned officer

of a regular component of an Armed Force. The Administration shall be administered under the supervision and direction of the Administrator, who shall be responsible for the efficient and coordinated management of the Administration.

(b) There shall be in the Administration a Deputy Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The President shall appoint the Administrator and Deputy Administrator from among individuals who, by reason of their general background and experience are specially qualified to manage a full range of energy research and development programs.

(d) There shall be in the Administration six Assistant Administrators, one of whom shall be responsible for fossil energy, another for nuclear energy, another for environment and safety, another for conservation, another for solar, geothermal, and advanced energy systems, and another for national security. The Assistant Administrators shall be appointed by the President, by and with the advice and consent of the Senate. The President shall appoint each Assistant Administrator from among individuals who, by reason of general background and experience, are specially qualified to manage the energy technology area assigned to such Assistant Administrator.

(e) There shall be in the Administration a General Counsel who shall be appointed by the Administrator and who shall serve at the pleasure of and be removable by the Administrator.

(f) There shall be in the Administration not more than eight additional officers appointed by the Administrator. The positions of such officers shall be considered career positions and be subject to subsection 161d. of the Atomic Energy Act.

(g) The Division of Military Application transferred to and established in the Administration by section 104(d) of this Act shall be under the direction of a Director of Military Application, who shall be appointed by the Administrator and who shall serve at the pleasure of and be removable by the Administrator and shall be an active commissioned officer of the Armed Forces serving in general or flag officer rank or grade. The functions, qualifications, and compensation of the Director of Military Application shall be the same as those provided under the Atomic Energy Act of 1954, as amended, for the Assistant General Manager for Military Application.

(h) Officers appointed pursuant to this section shall perform such functions as the Administrator shall specify from time to time. The Administrator shall delegate to one such officer the special responsibility for international cooperation in all energy and related environmental research and development.

(i) The Deputy Administrator (or in the absence or disability of the Deputy Administrator, or in the event of a vacancy in the office of the Deputy Administrator, an Assistant Administrator, the General Counsel or such other official, determined according to such order as the Administrator shall prescribe) shall act for and perform the functions of the Administrator during any absence or disability of the Administrator or in the event of a vacancy in the office of the Administrator.

RESPONSIBILITIES OF THE ADMINISTRATOR

SEC. 103. The responsibilities of the Administrator shall include, but not be limited to—

(1) exercising central responsibility for policy planning, coordination, support, and management of research and development programs respecting all energy sources, including assessing the requirements for research and development in regard to various energy sources in relation to near-term and long-range needs, policy planning in regard to meeting those requirements, undertaking programs for the optimal development of the various forms of energy sources, managing such programs, and disseminating information resulting therefrom;

(2) encouraging and conducting research and development, including demonstration of commercial feasibility and practical applications of the extraction, conversion, storage, transmission, and utilization phases related to the development and use of energy from fossil, nuclear, solar, geothermal, and other energy sources;

(3) engaging in and supporting environmental, biomedical, physical, and safety research related to the development of energy sources and utilization technologies;

(4) taking into account the existence, progress, and results of other public and private research and development activities, including those activities of the Federal Energy Administration relating to the development of energy resources using currently available technology in promoting increased utilization of energy resources, relevant to the Administration's mission in formulating its own research and development programs;

(5) participating in and supporting cooperative research and development projects which may involve contributions by public or private persons or agencies, of financial or other resources to the performance of the work;

(6) developing, collecting, distributing, and making available for distribution, scientific and technical information concerning the manufacture or development of energy and its efficient extraction, conversion, transmission, and utilization.

(7) creating and encouraging the development of general information to the public on all energy conservation technologies and energy sources as they become available for general use, and the Administrator, in conjunction with the Administrator of the Federal Energy Administration shall, to the extent practicable, disseminate such information through the use of mass communications;

(8) encouraging and conducting research and development in energy conservation, which shall be directed toward the goals of reducing total energy consumption to the maximum extent practicable, and toward maximum possible improvement in the efficiency of energy use. Development of new and improved conservation measures shall be conducted with the goal of the most expeditious possible application of these measures;

(9) encouraging and participating in international cooperation in energy and related environmental research and development;

(10) helping to assure an adequate supply of manpower for the accomplishment of energy research and development programs, by sponsoring and assisting in education and training activities in institutions of higher education, vocational schools, and other institutions, and by assuring the collection, analysis, and dissemination of necessary manpower supply and demand data;

(11) encouraging and conducting research and development in clean and renewable energy sources.

ABOLITION AND TRANSFERS

SEC. 104. (a) The Atomic Energy Commission is hereby abolished. Sections 21 and 22 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2031 and 2032) are repealed.

(b) All other functions of the Commission, the Chairman and members of the Commission, and the officers and components of the Commission are hereby transferred or allowed to lapse pursuant to the provisions of this Act.

(c) There are hereby transferred to and vested in the Administrator all functions of the Atomic Energy Commission, the Chairman and members of the Commission, and the officers and components of the Commission, except as otherwise provided in this Act.

(d) The General Advisory Committee established pursuant to section 26 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2036), the Patent Compensation Board established pursuant to section 157 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2187), and the Divisions of Military Application and Naval Reactors established pursuant to section 25 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2035), are transferred to the Energy Research and Development Administration and the functions of the Commission with respect thereto, and with respect to relations with the Military Liaison Committee established by section 27 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2037), are transferred to the Administrator.

(e) There are hereby transferred to and vested in the Administrator such functions of the Secretary of the Interior, the Department of the Interior, and officers and components of such department—

(1) as relate to or are utilized by the Office of Coal Research established pursuant to the Act of July 1, 1960 (74 Stat. 336; 30 U.S.C. 661-658);

(2) as relate to or are utilized in connection with fossil fuel energy research and development programs and related activities conducted by the Bureau of Mines "energy centers" and synthane plant to provide greater efficiency in the extraction processing, and utilization of energy resources for the purpose of conserving those resources, developing alternative energy resources, such as oil and gas secondary and tertiary recovery, oil shale and synthetic fuels, improving methods of managing energy-related wastes and pollutants, and providing technical guidance needed to establish and administer national energy policies; and

(3) as relate to or are utilized for underground electric power transmission research.

The Administrator shall conduct a study of the potential energy applications of helium and, within six months from the date of the enact-

ment of this Act, report to the President and Congress his recommendations concerning the management of the Federal helium programs, as they relate to energy.

(f) There are hereby transferred to and vested in the Administrator such functions of the National Science Foundation as relate to or are utilized in connection with—

- (1) solar heating and cooling development; and*
- (2) geothermal power development*

(g) There are hereby transferred to and vested in the Administrator such functions of the Environmental Protection Agency and the officers and components thereof as relate to or are utilized in connection with research, development, and demonstration, but not assessment or monitoring for regulatory purposes, of alternative automotive power systems.

(h) To the extent necessary or appropriate to perform functions and carry out programs transferred by this Act, the Administrator and Commission may exercise, in relation to the functions so transferred, any authority or part thereof available by law, including appropriation Acts, to the official or agency from which such functions were transferred.

(i) In the exercise of his responsibilities under section 103, the Administrator shall utilize, with their consent, to the fullest extent he determines advisable the technical and management capabilities of other executive agencies having facilities, personnel, or other resources which can assist or advantageously be expanded to assist in carrying out such responsibilities. The Administrator shall consult with the head of each agency with respect to such facilities, personnel, or other resources, and may assign, with their consent, specific programs or projects in energy research and development as appropriate. In making such assignments under this subsection, the head of each such agency shall insure that—

- (1) such assignments shall be in addition to and not detract from the basic mission responsibilities of the agency, and*
- (2) such assignments shall be carried out under such guidance as the Administrator deems appropriate.*

ADMINISTRATIVE PROVISIONS

SEC. 105. (a) The Administrator is authorized to prescribe such policies, standards, criteria, procedures, rules, and regulations as he may deem to be necessary or appropriate to perform functions now or hereafter vested in him.

(b) The Administrator shall engage in such policy planning, and perform such program evaluation analyses and other studies, as may be necessary to promote the efficient and coordinated administration of the Administration and properly assess progress toward the achievement of its missions.

(c) Except as otherwise expressly provided by law, the Administrator may delegate any of his functions to such officers and employees of the Administration as he may designate, and may authorize such successive redelegations of such functions as he may deem to be necessary or appropriate.

(d) Except as provided in section 102 and in section 104(d), the Administrator may organize the Administration as he may deem to be necessary or appropriate.

(e) *The Administrator is authorized to establish, maintain, alter, or discontinue such State, regional, district, local, or other field offices as he may deem to be necessary or appropriate to perform functions now or hereafter vested in him.*

(f) *The Administrator shall cause a seal of office to be made for the Administration of such device as he shall approve, and judicial notice shall be taken of such seal.*

(g) *The Administrator is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interests of economy and efficiency. There shall be transferred to the fund the stocks of supplies, equipment, assets other than real property, liabilities, and unpaid obligations relating to the services which he determines will be performed through the fund. Appropriations to the fund, in such amounts as may be necessary to provide additional working capital, are authorized. The working capital fund shall recover, from the appropriations and funds for which services are performed, either in advance or by way of reimbursement, amounts which will approximate the costs incurred, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from the sale or exchange of its property, and receipts in payment for loss or damage to property owned by the fund.*

(h) *Each department, agency, and instrumentality of the executive branch of the Government is authorized to furnish to the Administrator, upon his request, any information or other data which the Administrator deems necessary to carry out his duties under this title.*

PERSONNEL AND SERVICES

Sec. 106. (a) *The Administrator is authorized to select, appoint, employ, and fix the compensation of such officers and employees, including attorneys, pursuant to section 161 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2201(d)) as are necessary to perform the functions now or hereafter vested in him and to prescribe their functions.*

(b) *The Administrator is authorized to obtain services as provided by section 3109 of title 5 of the United States Code.*

(c) *The Administrator is authorized to provide for participation of military personnel in the performance of his functions. Members of the Army, the Navy, the Air Force, or the Marine Corps may be detailed for service in the Administration by the appropriate military Secretary, pursuant to cooperative agreements with the Secretary, for service in the Administration in positions other than a position the occupant of which must be approved by and with the advice and consent of the Senate.*

(d) *Appointment, detail, or assignment to, acceptance of, and service in, any appointive or other position in the Administration under this section shall in no way affect the status, office, rank, or grade which such officers or enlisted men may occupy or hold, or any emolument, privilege, right, or benefit incident to or arising out of any such status, office, rank, or grade. A member so appointed, detailed, or assigned shall not be subject to direction or control by his Armed Forces, or any officer thereof, directly or indirectly, with re-*

spect to the responsibilities exercised in the position to which appointed, detailed, or assigned.

(e) *The Administrator is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses, in accordance with chapter 57 of title 5 of the United States Code for travel between places of recruitment and duty, and while at places of duty, of persons appointed for emergency, temporary, or seasonal services in the field service of the Administration.*

(f) *The Administrator is authorized to utilize, on a reimbursable basis, the services of any personnel made available by any department, agency, or instrumentality, including any independent agency of the Government.*

(g) *The Administrator is authorized to establish advisory boards, in accordance with the provisions of the Federal Advisory Committee Act (Public Law 92-463), to advise with and make recommendations to the Administrator on legislation, policies, administration, research, and other matters.*

(h) *The Administrator is authorized to employ persons who are not citizens of the United States in expert, scientific, technical, or professional capacities whenever he deems it in the public interest.*

POWERS

SEC. 107. (a) The Administrator is authorized to exercise his powers in such manner as to insure the continued conduct of research and development and related activities in areas or fields deemed by the Administrator to be pertinent to the acquisition of an expanded fund of scientific, technical, and practical knowledge in energy matters. To this end, the Administrator is authorized to make arrangements (including contracts, agreements, and loans) for the conduct of research and development activities with private or public institutions or persons, including participation in joint or cooperative projects of a research, developmental, or experimental nature; to make payments (in lump sum or installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments); and generally to take such steps as he may deem necessary or appropriate to perform functions now or hereafter vested in him. Such functions of the Administrator under this Act as are applicable to the nuclear activities transferred pursuant to this title shall be subject to the provisions of the Atomic Energy Act of 1954, as amended, and to other authority applicable to such nuclear activities. The nonnuclear responsibilities and functions of the Administrator referred to in sections 103 and 104 of this Act shall be carried out pursuant to the provisions of this Act, applicable authority existing immediately before the effective date of this Act, or in accordance with the provisions of chapter 4 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2051-2053).

(b) Except for public buildings as defined in the Public Buildings Act of 1959, as amended, and with respect to leased space subject to the provisions of Reorganization Plan Numbered 18 of 1950, the Administrator is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain facilities and real property as the Administrator deems to be necessary in and outside of the District of Columbia. Such authority shall apply only to facilities required for the maintenance and opera-

tion of laboratories, research and testing sites and facilities, quarters, and related accommodations for employees and dependents of employees of the Administration, and such other special-purpose real property as the Administrator deems to be necessary in and outside the District of Columbia. Title to any property or interest therein, real, personal, or mixed, acquired pursuant to this section, shall be in the United States.

(c) (1) The Administrator is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stationed at remote locations:

(A) Emergency medical services and supplies.

(B) Food and other subsistence supplies.

(C) Messing facilities.

(D) Audiovisual equipment, accessories, and supplies for recreation and training.

(E) Reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons.

(F) Living and working quarters and facilities.

(G) Transportation for school-age dependents of employees to the nearest appropriate educational facilities.

(2) The furnishing of medical treatment under subparagraph (A) of paragraph (1) and the furnishing of services and supplies under paragraphs (B) and (C) of paragraph (1) shall be at prices reflecting reasonable value as determined by the Administrator.

(3) Proceeds from reimbursements under this section shall be deposited in the Treasury and maybe withdrawn by the Administrator to pay directly the cost of such work or services, to repay or make advances to appropriations or funds which do or will bear all or a part of such cost, or to refund excess sums when necessary; except that such payments may be credited to a service or working capital fund otherwise established by law, and used under the law governing such funds, if the fund is available for use by the Administrator for performing the work or services for which payment is received.

(d) The Administrator is authorized to acquire any of the following described rights if the property acquired thereby is for use in, or is useful to, the performance of functions vested in him:

(1) Copyrights, patents, and applications for patents, designs, processes, specifications, and data.

(2) Licenses under copyrights, patents, and applications for patents.

(3) Releases, before suit is brought, for past infringement of patents or copyrights.

(e) Subject to the provisions of chapter 12 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2161-2166), and other applicable law, the Administrator shall disseminate scientific, technical, and practical information acquired pursuant to this title through information programs and other appropriate means, and shall encourage the dissemination of scientific, technical, and practical information relating to energy so as to enlarge the fund of such information and to provide that free interchange of ideas and criticism which is essential to scientific and industrial progress and public understanding.

(f) *The Administrator is authorized to accept, hold, administer, and utilize gifts, and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Administration. Gifts and bequests of money and proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Administrator. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift or bequest to the United States.*

INTERIM COORDINATION

SEC. 108. (a) There is established in the Executive Office of the President an Energy Resources Council. The Council shall be composed of the Secretary of the Interior, the Administrator of the Federal Energy Administration, the Administrator of the Energy Research and Development Administration, the Secretary of State, the Director, Office of Management and Budget, and such other officials of the Federal Government as the President may designate. The President shall designate one of the members of the Council to serve as Chairman.

(b) It shall be the duty and function of the Council to—

(1) insure communication and coordination among the agencies of the Federal Government which have responsibilities for the development and implementation of energy policy or for the management of energy resources;

(2) make recommendations to the President and to the Congress for measures to improve the implementation of Federal energy policies or the management of energy resources with particular emphasis upon policies and activities involving two or more Departments or independent agencies; and

(3) advise the President in the preparation of the reorganization recommendations required by section 110 of this Act.

(c) The Chairman of the Council may not refuse to testify before the Congress or any duly authorized committee thereof regarding the duties of the Council or other matters concerning interagency coordination of energy policy and activities.

(d) This section shall be effective no later than sixty days after the enactment of this Act or such earlier date as the President shall prescribe and publish in the Federal Register, and shall terminate upon enactment of a permanent department responsible for energy and natural resources or two years after such effective date, whichever shall occur first.

FUTURE REORGANIZATION

SEC. 109. (a) The President shall transmit to the Congress as promptly as possible, but not later than June 30, 1975, such additional recommendations as he deems advisable for organization of energy and related functions in the Federal Government, including, but not limited to, whether or not there shall be established (1) a Department of Energy and Natural Resources, (2) an Energy Policy Council, and (3) a consolidation in whole or in part of regulatory functions concerning energy.

(b) This report shall replace and serve the purposes of the report required by section 15(a)(4) of the Federal Energy Administration Act.

COORDINATION WITH ENVIRONMENTAL EFFORTS

SEC. 110. The Administrator is authorized to establish programs to utilize research and development performed by other Federal agencies to minimize the adverse environmental effects of energy projects. The Administrator of the Environmental Protection Agency, as well as other affected agencies and departments, shall cooperate fully with the Administrator in establishing and maintaining such programs, and in establishing appropriate interagency agreements to develop cooperative programs and to avoid unnecessary duplication.

TITLE II—NUCLEAR REGULATORY COMMISSION

ESTABLISHMENT AND TRANSFERS

SEC. 201. (a) (1) There is established an independent regulatory commission to be known as the Nuclear Regulatory Commission which shall be composed of five members, each of whom shall be a citizen of the United States. The President shall designate one member of the Commission as Chairman thereof to serve as such during the pleasure of the President. The Chairman may from time to time designate any other member of the Commission as Acting Chairman to act in the place and stead of the Chairman during his absence. The Chairman (or the Acting Chairman in the absence of the Chairman) shall preside at all meetings of the Commission and a quorum for the transaction of business shall consist of at least three members present. Each member of the Commission, including the Chairman, shall have equal responsibility and authority in all decisions and actions of the Commission, shall have full access to all information relating to the performance of his duties or responsibilities, and shall have one vote. Action of the Commission shall be determined by a majority vote of the members present. The Chairman (or Acting Chairman in the absence of the Chairman) shall be the official spokesman of the Commission in its relations with the Congress, Government agencies, persons, or the public, and, on behalf of the Commission, shall see to the faithful execution of the policies and decisions of the Commission, and shall report thereon to the Commission from time to time or as the Commission may direct. The Commission shall have an official seal which shall be judicially noticed.

(2) The Chairman of the Commission shall be the principal executive officer of the Commission, and he shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to (A) the appointment and supervision of personnel employed under the Commission (other than personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman and except as otherwise provided in this Act), (B) the distribution of business among personnel appointed and supervised by the Chairman and among administrative units of the Commission, and (C) the use and expenditure of funds.

(3) In carrying out any of his functions under the provisions of this subsection the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(b) (1) Members of the Commission shall be appointed by the President, by and with the advice and consent of the Senate.

(2) *Appointments of members pursuant to this subsection shall be made in such a manner that not more than three members of the Commission shall be members of the same political party.*

(c) *Each member shall serve for a term of five years, each such term to commence on July 1, except that of the five members first appointed to the Commission, one shall serve for one year, one for two years, one for three years, one for four years, and one for five years, to be designated by the President at the time of appointment.*

(d) *Such initial appointments shall be submitted to the Senate within sixty days of the signing of this Act. Any individual who is serving as a member of the Atomic Energy Commission at the time of the enactment of this Act, and who may be appointed by the President to the Commission, shall be appointed for a term designated by the President, but which term shall terminate not later than the end of his present term as a member of the Atomic Energy Commission, without regard to the requirements of subsection (b) (2) of this section. Any subsequent appointment of such individuals shall be subject to the provisions of this section.*

(e) *Any member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. No member of the Commission shall engage in any business, vocation, or employment other than that of serving as a member of the Commission.*

(f) *There are hereby transferred to the Commission all the licensing and related regulatory functions of the Atomic Energy Commission, the Chairman and members of the Commission, the General Counsel, and other officers and components of the Commission—which functions, officers, components, and personnel are excepted from the transfer to the Administrator by section 104(c) of this Act.*

(g) *In addition to other functions and personnel transferred to the Commission, there are also transferred to the Commission—*

(1) the functions of the Atomic Safety and Licensing Board Panel and the Atomic Safety and Licensing Appeal Board;

(2) such personnel as the Director of the Office of Management and Budget determines are necessary for exercising responsibilities under section 205, relating to research, for the purpose of confirmatory assessment relating to licensing and other regulation under the provisions of the Atomic Energy Act of 1954, as amended, and of this Act.

LICENSING AND RELATED REGULATORY FUNCTIONS RESPECTING SELECTED ADMINISTRATION FACILITIES

SEC. 202. Notwithstanding the exclusions provided for in section 110 a. or any other provisions of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2140(a)), the Nuclear Regulatory Commission shall, except as otherwise specifically provided by section 110 b. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2140(b)), or other law, have licensing and related regulatory authority pursuant to chapters 6, 7, 8, and 10 of the Atomic Energy Act of 1954, as amended, as to the following facilities of the Administration:

(1) Demonstration Liquid Metal Fast Breeder reactors when operated as part of the power generation facilities of an electric utility system, or when operated in any other manner for the pur-

pose of demonstrating the suitability for commercial application of such a reactor.

(2) Other demonstration nuclear reactors—except those in existence on the effective date of this Act—when operated as part of the power generation facilities of an electric utility system, or when operated in any other manner for the purpose of demonstrating the suitability for commercial application of such a reactor.

(3) Facilities used primarily for the receipt and storage of high-level radioactive wastes resulting from activities licensed under such Act.

(4) Retrievable Surface Storage Facilities and other facilities authorized for the express purpose of subsequent long-term storage of high-level radioactive waste generated by the Administration, which are not used for, or are part of, research and development activities.

OFFICE OF NUCLEAR REACTOR REGULATION

SEC. 203. (a) There is hereby established in the Commission an Office of Nuclear Reactor Regulation under the direction of a Director of Nuclear Reactor Regulation, who shall be appointed by the Commission, who may report directly to the Commission, as provided in section 209, and who shall serve at the pleasure of and be removable by the Commission.

(b) Subject to the provisions of this Act, the Director of Nuclear Reactor Regulation shall perform such functions as the Commission shall delegate including:

(1) Principal licensing and regulation involving all facilities and materials licensed under the Atomic Energy Act of 1954, as amended, associated with the construction and operation of nuclear reactors licensed under the Atomic Energy Act of 1954, as amended;

(2) Review the safety and safeguards of all such facilities, materials, and activities, and such review functions shall include, but not be limited to—

(A) monitoring, testing and recommending upgrading of systems designed to prevent substantial health or safety hazards; and

(B) evaluating methods of transporting special nuclear and other nuclear materials and of transporting and storing high-level radioactive wastes to prevent radiation hazards to employees and the general public.

(3) Recommend research necessary for the discharge of the functions of the Commission.

(c) Nothing in this section shall be construed to limit in any way the functions of the Administration relating to the safe operation of all facilities resulting from all activities within the jurisdiction of the Administration pursuant to this Act.

OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS

SEC. 204. (a) There is hereby established in the Commission an Office of Nuclear Material Safety and Safeguards under the direction of a Director of Nuclear Material Safety and Safeguards, who shall be appointed by the Commission, who may report directly to the Com-

mission as provided in section 209, and who shall serve at the pleasure of and be removable by the Commission.

(b) Subject to the provisions of this Act, the Director of Nuclear Material Safety and Safeguards shall perform such functions as the Commission shall delegate including:

(1) Principal licensing and regulation involving all facilities and materials, licensed under the Atomic Energy Act of 1954, as amended, associated with the processing, transport, and handling of nuclear materials, including the provision and maintenance of safeguards against threats, thefts, and sabotage of such licensed facilities, and materials.

(2) Review safety and safeguards of all such facilities and materials licensed under the Atomic Energy Act of 1954, as amended, and such review shall include, but not be limited to—

(A) monitoring, testing, and recommending upgrading of internal accounting systems for special nuclear and other nuclear materials licensed under the Atomic Energy Act of 1954, as amended;

(B) developing, in consultation and coordination with the Administration, contingency plans for dealing with threats, thefts, and sabotage relating to special nuclear materials, high-level radioactive wastes and nuclear facilities resulting from all activities licensed under the Atomic Energy Act of 1954, as amended;

(C) assessing the need for, and the feasibility of, establishing a security agency within the office for the performance of the safeguards functions, and a report with recommendations on this matter shall be prepared within one year of the effective date of this Act and promptly transmitted to the Congress by the Commission.

(3) Recommending research to enable the Commission to more effectively perform its functions.

(c) Nothing in this section shall be construed to limit in any way the functions of the Administration relating to the safeguarding of special nuclear materials, high-level radioactive wastes and nuclear facilities resulting from all activities within the jurisdiction of the Administration pursuant to this Act.

OFFICE OF NUCLEAR REGULATORY RESEARCH

SEC. 205. (a) There is hereby established in the Commission an Office of Nuclear Regulatory Research under the direction of a Director of Nuclear Regulatory Research, who shall be appointed by the Commission, who may report directly to the Commission as provided in section 209, and who shall serve at the pleasure of and be removable by the Commission.

(b) Subject to the provisions of this Act, the Director of Nuclear Regulatory Research shall perform such functions as the Commission shall delegate including:

(1) Developing recommendations for research deemed necessary for performance by the Commission of its licensing and related regulatory functions.

(2) Engaging in or contracting for research which the Commission deems necessary for the performance of its licensing and related regulatory functions.

(c) *The Administrator of the Administration and the head of every other Federal agency shall—*

(1) cooperate with respect to the establishment of priorities for the furnishing of such research services as requested by the Commission for the conduct of its functions;

(2) furnish to the Commission, on a reimbursable basis, through their own facilities or by contract or other arrangement, such research services as the Commission deems necessary and requests for the performance of its functions; and

(3) consult and cooperate with the Commission on research and development matters of mutual interest and provide such information and physical access to its facilities as will assist the Commission in acquiring the expertise necessary to perform its licensing and related regulatory functions.

(d) Nothing in subsections (a) and (b) of this section or section 201 of this Act shall be construed to limit in any way the functions of the Administration relating to the safety of activities within the jurisdiction of the Administration.

(e) Each Federal agency, subject to the provisions of existing law, shall cooperate with the Commission and provide such information and research services, on a reimbursable basis, as it may have or be reasonably able to acquire.

NONCOMPLIANCE

SEC. 206. (a) Any individual director, or responsible officer of a firm constructing, owning, operating, or supplying the components of any facility or activity which is licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954 as amended, or pursuant to this Act, who obtains information reasonably indicating that such facility or activity or basic components supplied to such facility or activity—

(1) fails to comply with the Atomic Energy Act of 1954, as amended, or any applicable rule, regulation, order, or license of the Commission relating to substantial safety hazards, or

(2) contains a defect which could create a substantial safety hazard, as defined by regulations which the Commission shall promulgate,
shall immediately notify the Commission of such failure to comply, or of such defect, unless such person has actual knowledge that the Commission has been adequately informed of such defect or failure to comply.

(b) Any person who knowingly and consciously fails to provide the notice required by subsection (a) of this section shall be subject to a civil penalty in an amount equal to the amount provided by section 234 of the Atomic Energy Act of 1954, as amended.

(c) The requirements of this section shall be prominently posted on the premises of any facility licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954, as amended.

(d) The Commission is authorized to conduct such reasonable inspections and other enforcement activities as needed to insure compliance with the provisions of this section.

NUCLEAR ENERGY CENTER SITE SURVEY

Sec. 207. (a) (1) The Commission is authorized and directed to make or cause to be made under its direction, a national survey, which shall include consideration of each of the existing or future electric reliability regions, or other appropriate regional areas, to locate and identify possible nuclear energy center sites. This survey shall be conducted in cooperation with other interested Federal, State, and local agencies, and the views of interested persons, including electric utilities, citizens' groups, and others, shall be solicited and considered.

(2) For purposes of this section, the term "nuclear energy center site" means any site, including a site not restricted to land, large enough to support utility operations or other elements of the total nuclear fuel cycle, or both including, if appropriate, nuclear fuel reprocessing facilities, nuclear fuel fabrication plants, retrievable nuclear waste storage facilities, and uranium enrichment facilities.

(3) The survey shall include—

(a) a regional evaluation of natural resources, including land, air, and water resources, available for use in connection with nuclear energy center sites; estimates of future electric power requirements that can be served by each nuclear energy center site; an assessment of the economic impact of each nuclear energy site; and consideration of any other relevant factors, including but not limited to population distribution, proximity to electric load centers and to other elements of the fuel cycle, transmission line rights-of-way, and the availability of other fuel resources;

(b) an evaluation of the environmental impact likely to result from construction and operation of such nuclear energy centers, including an evaluation whether such nuclear energy centers will result in greater or lesser environmental impact than separate siting of the reactors and/or fuel cycle facilities; and

(c) consideration of the use of federally owned property and other property designated for public use, but excluding national parks, national forests, national wilderness areas, and national historic monuments.

(4) A report of the results of the survey shall be published and transmitted to the Congress and the Council on Environmental Quality not later than one year from the date of the enactment of this Act and shall be made available to the public, and shall be updated from time to time thereafter as the Commission, in its discretion, deems advisable. The report shall include the Commission's evaluation of the results of the survey and any conclusions and recommendations, including recommendations for legislation, which the Commission may have concerning the feasibility and practicality of locating nuclear power reactors and/or other elements of the nuclear fuel cycle on nuclear energy center sites. The Commission is authorized to adopt policies which will encourage the location of nuclear power reactors and related fuel cycle facilities on nuclear energy center sites insofar as practicable.

ABNORMAL OCCURRENCE REPORTS

Sec. 208. The Commission shall submit to the Congress each quarter a report listing for that period any abnormal occurrences at or associated with any facility which is licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954 as amended, or pursuant to

this Act. For the purposes of this section an abnormal occurrence is an unscheduled incident or event which the Commission determines is significant from the standpoint of public health or safety. Nothing in the preceding sentence shall limit the authority of a court to review the determination of the Commission. Each such report shall contain—

- (1) the date and place of each occurrence;*
- (2) the nature or probable consequence of each occurrence;*
- (3) the cause or causes of each; and*
- (4) any action taken to prevent reoccurrence;*

the Commission shall also provide as wide dissemination to the public of the information specified in clauses (1) and (2) of this section as reasonably possible within fifteen days of its receiving information of each abnormal occurrence and shall provide as wide dissemination to the public as reasonably possible of the information specified in clauses (3) and (4) as soon as such information becomes available to it.

OTHER OFFICERS

SEC. 209. (a) The Commission shall appoint an Executive Director for Operations, who shall serve at the pleasure of and be removable by the Commission.

(b) The Executive Director shall perform such functions as the Commission may direct, except that the Executive Director shall not limit the authority of the director of any component organization provided in this Act to communicate with or report directly to the Commission when such director of a component organization deems it necessary to carry out his responsibilities.

(c) There shall be in the Commission not more than five additional officers appointed by the Commission. The positions of such officers shall be considered career positions and be subject to subsection 161d of the Atomic Energy Act.

TITLE III—MISCELLANEOUS AND TRANSITIONAL PROVISIONS

TRANSITIONAL PROVISIONS

SEC. 301. (a) Except as otherwise provided in this Act, whenever all of the functions or programs of an agency, or other body, or any component thereof, affected by this Act, have been transferred from that agency, or other body, or any component thereof by this Act, the agency, or other body, or component thereof shall lapse. If an agency, or other body, or any component thereof, lapses pursuant to the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for an office or position at level II, III, IV, or V of Executive Schedule (5 U.S.C. 5313–5316), shall lapse.

(b) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

- (1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act, and*

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Administrator, the Commission, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(c) The provisions of this Act shall not affect any proceeding pending, at the time this section takes effect, before the Atomic Energy Commission or any department or agency (or component thereof) functions of which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit this discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this Act had not been enacted.

(d) Except as provided in subsection (f)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

(e) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or such official as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter any order which will give effect to the provisions of this section.

(f) If, before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Administrator or Commission, or any other official, then such suit shall be continued as if this Act had not been enacted, with the Administrator or Commission, or other official, as the case may be, substituted.

(g) Final orders and actions of any official or component in the performance of functions transferred by this Act shall be subject to judicial review to the same extent and in the same manner as if such orders or actions had been made or taken by the officer, department, agency, or instrumentality in the performance of such functions immediately preceding the effective date of this Act. Any statutory requirements relating to notices, hearings, action upon the record,

or administrative review that apply to any function transferred by this Act shall apply to the performance of those functions by the Administrator or Commission, or any officer or component.

(h) With respect to any function transferred by this Act and performed after the effective date of this Act, reference in any other law to any department or agency, or any officer or office, the functions of which are so transferred, shall be deemed to refer to the Administration, the Administrator or Commission, or other office or official in which this Act vests such functions.

(i) Nothing contained in this Act shall be construed to limit, curtail, abolish, or terminate any function of the President which he had immediately before the effective date of this Act; or to limit, curtail, abolish, or terminate his authority to perform such function; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegation of functions.

(j) Any reference in this Act to any provision of law shall be deemed to include, as appropriate, references thereto as now or hereafter amended or supplemented.

(k) Except as may be otherwise expressly provided in this Act, all functions expressly conferred by this Act shall be in addition to and not in substitution for functions existing immediately before the effective date of this Act and transferred by this Act.

TRANSFER OF PERSONNEL AND OTHER MATTERS

SEC. 302. (a) Except as provided in the next sentence, the personnel employed in connection with, and the personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions and programs transferred by this Act, are, subject to section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), correspondingly transferred for appropriate allocation. Personnel positions expressly created by law, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation at the rate prescribed for offices and positions at levels II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313-5316) on the effective date of this Act shall be subject to the provisions of subsection (c) of this section and section 301 of this Act.

(b) Except as provided in subsection (c), transfer of nontemporary personnel pursuant to this Act shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer.

(c) Any person who, on the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5 of the United States Code, and who, without a break in service, is appointed in the Administration to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position.

INCIDENTAL DISPOSITIONS

SEC. 303. The Director of the Office of Management and Budget is authorized to make such additional incidental dispositions of personnel, personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with functions transferred by this Act, as he may deem necessary or appropriate to accomplish the intent and purpose of this Act.

DEFINITIONS

SEC. 304. As used in this Act—

(1) any reference to "function" or "functions" shall be deemed to include references to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and

(2) any reference to "perform" or "performance," when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

AUTHORIZATION OF APPROPRIATIONS

SEC. 305. (a) Except as otherwise provided by law, appropriations made under this Act shall be subject to annual authorization.

(b) Authorization of appropriations to the Commission shall reflect the need for effective licensing and other regulation of the nuclear power industry in relation to the growth of such industry.

COMPTROLLER GENERAL AUDIT

SEC. 306. (a) Section 166, "Comptroller General Audit" of the Atomic Energy Act of 1954, as amended, shall be deemed to be applicable, respectively, to the nuclear and nonnuclear activities under title I and to the activities under title II.

(b) The Comptroller General of the United States shall audit, review, and evaluate the implementation of the provisions of title II of this Act by the Nuclear Safety and Licensing Commission not later than sixty months after the effective date of this Act, the Comptroller General shall prepare and submit to the Congress a report on his audit, which shall contain, but not be limited to—

(1) an evaluation of the effectiveness of the licensing and related regulatory activities of the Commission and the operations of the Office of Nuclear Safety Research and the Bureau of Nuclear Materials Security;

(2) an evaluation of the effect of such Commission activities on the efficiency, effectiveness, and safety with which the activities licensed under the Atomic Energy Act of 1954, as amended, are carried out;

(3) recommendations concerning any legislation he deems necessary, and the reasons therefor, for improving the implementation of title II.

REPORTS

SEC. 307. (1) The Administrator shall, as soon as practicable after the end of each fiscal year, make a report to the President for submission to the Congress on the activities of the Administration during

the preceding fiscal year. Such report shall include a statement of the short-range and long-range goals, priorities, and plans of the Administration together with an assessment of the progress made toward the attainment of those objectives and toward the more effective and efficient management of the Administration and the coordination of its functions.

(b) During the first year of operation of the Administration, the Administrator, in collaboration with the Secretary of Defense, shall conduct a thorough review of the desirability and feasibility of transferring to the Department of Defense or other Federal agencies the functions of the Administrator respecting military application and restricted data, and within one year after the Administrator first takes office the Administrator shall make a report to the President, for submission to the Congress, setting forth his comprehensive analysis, the principal alternatives, and the specific recommendations of the Administrator and the Secretary of Defense.

(c) The Commission shall, as soon as practicable after the end of each fiscal year, make a report to the President for submission to the Congress on the activities of the Commission during the preceding fiscal year. Such report shall include a clear statement of the short-range and long-range goals, priorities, and plans of the Commission as they relate to the benefits, costs, and risks of commercial nuclear power. Such report shall also include a clear description of the Commission's activities and findings in the following areas—

(1) insuring the safe design of nuclear powerplants and other licensed facilities;

(2) investigating abnormal occurrences and defects in nuclear powerplants and other licensed facilities;

(3) safeguarding special nuclear materials at all stages of the nuclear fuel cycle;

(4) investigating suspected, attempted, or actual thefts of special nuclear materials in the licensed sector and developing contingency plans for dealing with such incidents;

(5) insuring the safe, permanent disposal of high-level radioactive wastes through the licensing of nuclear activities and facilities;

(6) protecting the public against the hazards of low-level radioactive emissions from licensed nuclear activities and facilities.

INFORMATION TO COMMITTEES

SEC. 308. The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Administration's activities.

TRANSFER OF FUNDS

SEC. 309. The Administrator, when authorized in an appropriation Act, may, in any fiscal year, transfer funds from one appropriation to another within the Administration; except, that no appropriation shall be either increased or decreased pursuant to this section by more than 5 per centum of the appropriation for such fiscal year.

CONFORMING AMENDMENTS TO CERTAIN OTHER LAWS

Sec. 310. Subchapter II (relating to Executive Schedule pay rates) of chapter 53 of title 5, United States Code, is amended as follows:

(1) Section 5313 is amended by striking out "(8) Chairman, Atomic Energy Commission." and inserting in lieu thereof "(8) Chairman, Nuclear Regulatory Commission.", and by adding at the end thereof the following:

"(22) Administrator of Energy Research and Development Administration."

(2) Section 5314 is amended by striking out "(42) Members, Atomic Energy Commission." and inserting in lieu thereof "(42) Members, Nuclear Regulatory Commission.", and by adding at the end thereof the following:

"(69) Deputy Administrator, Energy Research and Development Administration."

(3) Section 5315 is amended by striking out paragraph (50), and by adding at the end thereof the following:

"(100) Assistant Administrators, Energy Research and Development Administration. (6).

"(101) Director of Nuclear Reactor Regulation, Nuclear Regulatory Commission.

"(102) Director of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission.

"(103) Director of Nuclear Regulatory Research, Nuclear Regulatory Commission.

"(104) Executive Director for Operations, Nuclear Regulatory Commission."

(4) Section 5316 is amended by striking out paragraphs (29), (62), (69), and (102), by striking out "(81) General Counsel of the Atomic Energy Commission," and inserting in lieu thereof "(81) General Counsel of the Nuclear Regulatory Commission.", and by adding at the end thereof the following:

"(134) General Counsel, Energy Research and Development Administration.

"(135) Additional officers, Energy Research and Development Administration. (8).

"(136) Additional officers, Nuclear Regulatory Commission (5)."

SEPARABILITY

Sec. 311. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

EFFECTIVE DATE AND INTERIM APPOINTMENTS

Sec. 312. (a) This Act shall take effect one hundred and twenty days after the date of its enactment, or on such earlier date as the President may prescribe and publish in the Federal Register: except that any of the officers provided for in title I of this Act may be nominated and appointed, as provided by this Act, at any time after the date of enactment of this Act. Funds available to any department or agency (or any official or component thereof), any functions of which are transferred to the Administrator and the Commission by this Act, may, with the approval of the President, be used to pay the

compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

(b) In the event that any officer required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act, the President may designate any officer, whose appointment was required to be made by and with the advice and consent of the Senate and who was such an officer immediately prior to the effective date of this Act, to act in such office until the office is filled as provided in this Act. While so acting, such persons shall receive compensation of the rates provided by this Act for the respective offices in which they act.

TITLE IV—SEX DISCRIMINATION

SEX DISCRIMINATION PROHIBITED

Sec. 401. No person shall on the ground of sex be excluded from participation in, be denied a license under, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving Federal assistance under any title of this Act. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI by the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same with an amendment as follows:

In lieu of the amended title proposed by the Senate amendment, amend the title so as to read: "An Act to reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a new Nuclear Regulatory Commission in order to promote more efficient management of such functions."

And the Senate agree to the same.

SAM J. ERVIN,
HENRY JACKSON,
EDMUND S. MUSKIE,
ABE RIBICOFF,
CHARLES PERCY,
JACOB JAVITS,
EDWARD J. GURNEY,
W. V. ROTH, Jr.,

Managers on the Part of the Senate.

CHET HOLIFIELD,
WILLIAM S. MOORHEAD,
FERNAND J. ST GERMAIN,
DON FUQUA,
FRANK HORTON,
JOHN WYDLER,
CLARENCE J. BROWN,

Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11510) to reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a Nuclear Energy Commission in order to promote more efficient management of such functions, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

Except for certain clarifying, clerical, conforming, and other technical changes, the changes made to deal with the differences between the House bill and the Senate amendment are noted below.

TITLE—NAME OF COMMISSION

The Senate amendment amended the title to change the name of the Nuclear Energy Commission to the Nuclear Safety and Licensing Commission. The name substituted by the conferees is Nuclear Regulatory Commission, and conforming changes are made in the text.

The short title, "Energy Reorganization Act of 1974," follows the Senate amendment (section 1). The House bill was passed in 1973.

ENERGY PRIORITIES

The Senate amendment, in the declaration of purpose (subsection 2(b)), included a reference to "general basic research activities" of the Atomic Energy Commission (AEC) as among the functions to be transferred to the Energy Research and Development Administration (ERDA), and contained a proviso that ERDA give no "unwarranted priority" to any energy technology. Certain guidelines for the determination of priorities were set forth (subsection 2(e)).

The conference substitute includes the Senate reference to "general basic research activities"; restates the language on "unwarranted priority" in positive terms to make clear that all possible sources of energy will be developed, consistent with warranted priorities; and modifies the language on determination of priorities to make clear that the Administrator of ERDA will have to take into account a range of factors in developing suitable programs.

SMALL BUSINESS PARTICIPATION

The Senate amendment (subsection 2(d)) included in the declaration of purpose a reference to small business participation in Federal grants and contracts relating to energy research, development, and demonstrations; and provided (subsection 103(b)) for consultation

between the Administrators of ERDA and the Small Business Administration (SBA) in carrying out this policy.

The conference substitute (section 2(d)) combines the two references to small business, with modified language. The sense of the declaration is that small business should be given a reasonable opportunity to participate and should be treated fairly and equitably in Federal contract and grant awards. Such participation would hinge upon the availability of qualified small business firms to perform the needed services rather than on some mathematical formula for the awarding of contracts and grants to small business.

QUALIFICATIONS OF TOP OFFICERS OF ERDA

In several instances, the Senate amendment prescribed qualifications for the positions of Administrator, Deputy Administrator, and Assistant Administrators.

(1) The Senate amendment (section 102(a)) specified that the Administrator be "appointed from civilian life" and that the appointee shall not have been a commissioned officer in the Armed Forces for at least five years prior to his appointment.

The conference substitute follows the Senate amendment with a change reducing the five-year limitation to two years.

(2) The Senate amendment (section 102(c)) provided that the Administrator and Deputy Administrator be appointed "... from among individuals who, by reason of their training and experience are specially qualified to manage a full range of energy research and development programs."

The conference substitute includes the Senate language, but replaces "training" with "general background." The conferees wish to make it clear that it is an individual's background and experience, not necessarily his formal education, which should bear heavily on his qualifications to manage a full range of energy research and development programs.

(3) The Senate amendment (section 102(d)) required each Assistant Administrator to be appointed "... from among individuals who, by reason of training and experience, are specially qualified to manage the energy technology area assigned to such Assistant Administrator."

This language is incorporated in the conference substitute (subsection 102(d)), with a modification to replace "training" with "general background."

DESIGNATION OF OFFICERS' SPECIFIC TITLES AND DUTIES

In several instances, the Senate amendment associated specific duties with top level officers, designated titles and functions differently from the House bill, and increased the number of top-level positions in ERDA.

(1) The Deputy Administrator (subsection 102(b)) was given special responsibility for international cooperation in energy and related environmental research and development.

The conference substitute provides that this special responsibility be assigned by the Administrator to an officer of his choosing, rather than by statute to the Deputy Administrator; and this provision is

made a part of subsection 102(h), which relates to the assignment of functions to officers by the Administrator.

The conferees, by including a reference to international cooperation in energy research and development, emphasize the worldwide importance and impact of energy problems, and the need for cooperation by the United States with other nations in energy affairs. At the same time, the conferees wish to make it clear that ERDA activities looking toward international cooperation in no way limit State Department responsibilities and activities.

(2) The House bill (subsection 102(c)) provided for an Assistant Administrator for national security. The Senate amendment (subsection 102(d)) designated this officer an Assistant Administrator for defense programs.

The conference substitute retains the House designation. The conferees believe that "national security," as a more encompassing term, suitably describes the responsibility of the Assistant Administrator who will be in charge of nuclear weapons programs and all matters related to the common defense and security, as that term is used in the Atomic Energy Act of 1954, as amended.

(3) The House bill (subsection 102(c)) provided for an Assistant Administrator for research and advanced energy systems. The Senate amendment (subsection 102(d)) designated this officer an Assistant Administrator for Solar, Geothermal, and Advanced Energy Systems.

The conference substitute incorporates the Senate designation.

(4) The House bill (subsection 102(c)) provided for five Assistant Administrators with designated areas of responsibility, including an Assistant Administrator for "environment, safety, and conservation." The Senate amendment (subsection 102(d)) provided for six Assistant Administrators, including one for "environment and safety" and another for "conservation."

The conference substitute incorporates the Senate provisions, thus providing a separate Assistant Administrator for conservation. The conferees recognize the importance of energy conservation, and require that ERDA support research in, and development of, energy-efficient equipments, devices, methods, and processes.

(5) The House bill (subsection 102(e)) provided for seven officers at executive level V in ERDA, who were to be considered career officers under subsection 161d. of the Atomic Energy Act. The Senate amendment (subsection 102(f)) provided for eight such officers, to serve at the pleasure of and be removable by the Administrator; also, that one of these officers be assigned responsibility for recommending appropriate educational support programs to assure an adequate supply of technical manpower.

The conference substitute incorporates the Senate provision for eight officers at executive level V, but follows the House bill in placing these officers within the context of the career service as developed under subsection 161d. of the Atomic Energy Act. The conferees believe that such status will promote desired professionalism and continuity in highly technical programs.

The conference substitute also strikes the reference to educational support programs. The conferees recognize the importance of an adequate supply of technical manpower and make provision for it elsewhere in the Act (subsection 103(10)). While the conferees believe that the Administrator should be permitted to use his discretion in

assigning responsibility for training and educational support programs, they also believe that such programs are of sufficient importance to be assigned to a specific officer.

RESPONSIBILITIES OF ADMINISTRATOR

The Senate amendment differed from the House bill in specifying the responsibilities of the Administrator. The Senate amendment:

(1) Combined in subsection 103(a)(2) modified House bill language in subsections 103 (2) and (3), and added a reference to future non-nuclear research and development programs which may be authorized by Congress.

(2) Added a reference to the Federal Energy Administration's (FEA) development activities (subsection 103(a)(4)) relating to increased utilization of energy sources, using currently available technology.

(3) Added responsibility relating to international cooperation.

(4) Added responsibility relating to developing public information on conservation technologies, solar energy, and other advanced energy sources.

(5) Added responsibility for the collection, analysis, and dissemination of manpower supply and demand data relating to energy research and development.

(6) Added responsibility to help prevent a shortage of manpower in energy research and development.

(7) Added responsibility to encourage and conduct research and development in clean and renewable energy sources.

(8) Added a requirement that ERDA consult with SBA to promote small business participation.

The conference substitute incorporates the Senate language, with modifications, deleting some language as unnecessary and combining related subsections.

The Administrator's responsibility relating to international cooperation is retained, with the understanding, as stated above, that no interference is intended with the State Department's responsibilities.

In requiring the Administrator to take into account FEA development activities based upon existing technologies, the conferees point out that FEA has a limited tenure under its enabling legislation, and such development work as it conducts or supports is directed to the use of existing technologies, rather than to research and development, as those terms generally are used. In the executive branch, responsibility for energy research and development will be centered in ERDA.

In adopting modified Senate language referring to educational programs in universities, colleges, and vocational schools, in the interest of assuring adequate manpower for energy research and development purposes, the conferees point out that this provision (subsection 103 (10)) does not constitute, by itself, an authorization for such programs. These are, or will be, separately authorized.

In retaining a reference to research and development in clean and renewable energy sources, the conferees are not necessarily singling out these sources for attention in a priority sense, but rather cite them as two among a number of factors to be considered by the Administrator in exercising his research and development responsibilities. The Administrator is expected to give due and proper attention to all prom-

ising energy sources and modes according to their potentials for development and use within economic, environmental, time-phasing, and other criteria of availability and acceptance.

ABOLITION AND ESTABLISHMENT OF COMMISSION

The Senate amendment (section 104) transferred certain functions from the AEC to ERDA, abolished AEC, and constituted a new commission (section 201), named the Nuclear Safety and Licensing Commission, to which were transferred licensing and regulatory functions. The House bill (section 201) transferred certain AEC functions to ERDA and retained licensing and regulatory functions in the AEC, renamed the Nuclear Energy Commission.

The conference substitute (section 104 and section 201) follows the Senate amendment with respect to abolition of the AEC and creation of a new regulatory commission, except that the name is changed to Nuclear Regulatory Commission. The conferees believe that in this way the President will have more latitude in deciding whether to renominate the incumbent Commissioners or to replace them.

TRANSFERS TO ERDA

The Senate amendment differed from the House bill in making certain transfers of functions to ERDA from other agencies.

(1) The Senate amendment (subsection 104(e)(4)) transferred the helium program to ERDA from the Department of Interior.

In lieu of the transfer, the conference substitute (subsection 104(e)) incorporates a provision directing the Administrator to conduct a study of the potential energy applications of helium and to report his recommendations to the President and the Congress within six months after the enactment of the Act. These recommendations will concern the management of the helium program from the standpoint of energy research and development.

(2) The Senate amendment omitted the provision in the House bill (subsection 104(e)) transferring to ERDA from the Environmental Protection Agency (EPA) functions relating to the development and demonstration of alternative automotive power systems (AAPS) and development and demonstration of precombustion, combustion, and postcombustion technologies to control emissions of pollutants from stationary sources using fossil fuels.

The conference substitute (subsection 104(g)) provides for the transfer to ERDA of that part of the AAPS program relating to the development and demonstration of advanced systems. That part relating to the assessment or monitoring for regulatory purpose remains in the EPA.

With regard to the stationary source pollution control technology program, the conferees agreed that the EPA should continue to exercise its authority for regulatory purposes with the understanding that the deletion of this transfer in no way limits ERDA's authority under other provisions of the Act (specifically sections 103, 104(a), (b), (c) and (d) and 108) to undertake basic research, development, and demonstration programs in the control technology area.

Existing contractual arrangements between EPA and other Federal agencies conducting programs transferred by this Act will con-

tinue when such programs are transferred to ERDA. The conferees intend that contractual arrangements be used to avoid unnecessary duplication of effort.

(3) The Senate amendment (subsection 104(h)) authorized the Administrator to utilize the capabilities of other executive agencies in research and development.

The conference substitute (subsection 104(i)) incorporates the Senate language but makes clear that other agencies must give their consent in providing services.

ENERGY POLICY AND ADVISORY COUNCILS

The Senate amendment (section 108) provided for two new organizational units in the Executive Office of the President, a Council on Energy Policy and an Interagency Energy Resources Advisory Committee. The Council would be composed of three full-time members, appointed by the President, who would designate the chairman. The Council would serve as the President's principal advisor on energy policy. The Advisory Committee would be an interagency group, comprising the heads of named agencies, with a chairman selected by the members.

The conference substitute omits the provision for a Council on Energy Policy but retains, in slightly modified form, the provision for the Advisory Committee, which is redesignated the Energy Resources Council (section 108). The conferees believe that two such units in the Executive Office of the President would create conflict and duplication and that both are not needed.

Furthermore, the President made known to the conferees his explicit opposition to the establishment of the Council on Energy Policy, and the conferees are inclined to give weight to the President's judgment in deciding how best to utilize advisory services and to pattern the organization of the Executive Office. The statutory Energy Resources Council would replace the present nonstatutory Committee on Energy, established on June 14, 1974.

FUTURE REORGANIZATION

The Senate amendment had two provisions regarding future reorganization: The President was required to transmit his recommendations to the Congress by January 31, 1975, for organizational arrangements concerning the management of energy and natural resources (section 109); and, by March 31, 1975, for organizational arrangements concerning the regulation of energy activities (section 110).

The conference substitute (section 109) combines and reduces the two sections to a requirement that the President transmit to the Congress as promptly as possible, but no later than June 30, 1975, such additional recommendations as he deems advisable for the organization of energy and related functions in the Federal Government. These may include recommendations as to whether or not there shall be established (1) a Department of Energy and Natural Resources; (2) an Energy Policy Council; and (3) a consolidation in whole or in part of the regulatory functions concerning energy.

COORDINATION OF ENERGY AND ENVIRONMENTAL PROGRAMS

The Senate amendment (section 111) authorized the Administrator to establish programs to utilize research and development performed by other agencies to minimize the adverse environmental effects of energy projects, and directs the EPA and other agencies to cooperate with ERDA in the interest of developing cooperative programs and avoiding unnecessary duplication.

The conference substitute (section 110) retains the Senate provisions.

NUCLEAR POWER PARK SITE SURVEY

The Senate amendment (section 112) made a finding that it is in the national interest to locate regional nuclear power park sites. The Administrator was authorized to make a survey and report to the Congress within one year.

The conference substitute replaces the Senate language with a more comprehensive provision for a nuclear energy center site survey based on legislation drafted by the Joint Committee on Atomic Energy and moves this provision to title II of the Act (section 207). This provision requires that the study be undertaken by the Commission rather than by ERDA and that the survey "identify" rather than "designate" possible sites for nuclear centers. The study is to be completed within one year from date of enactment of the Act rather than not later than June 30, 1976.

In adopting this provision, the conferees recognize the potential value of nuclear parks as well as the complex problems associated with designation of sites and requiring that nuclear power plants to be located in them. But it is apparent that much more information is needed before a nuclear power park site proposal can be adopted and sites actually can be designated.

CREATION OF COMMISSION

As already stated, the House bill (section 201) provided for a Nuclear Energy Commission as a renamed AEC performing retained licensing and related regulatory functions; whereas the Senate amendment (sections 104 and 201) abolished the AEC and created a Nuclear Safety and Licensing Commission to perform transferred licensing and regulatory functions. Under the Senate amendment, the incumbent AEC Commissioners (two vacancies exist) would not automatically retain their positions, but if reappointed would have to be reconfirmed by the Senate.

The Senate amendment also introduced the following changes:

(1) Since the AEC formally was abolished and a new Commission created, the duties of the Commission and the authorities and privileges of its members, as provided in sections 21 and 22 of the Atomic Energy Act, were restated.

(2) The Chairman was designated the principal officer of the Commission and charged with exercising all of its executive and administrative functions, including personnel, expenditures, and distribution of Commission business.

(3) In selecting members of the Commission, the President was "to have due regard to a fair representation of expertise in nuclear safety technology, health science, and environmental science".

(4) Bipartisanship was required. Not more than three of the five members could belong to the same political party.

(5) The provisions with regard to technical and political qualifications were not to apply to existing commissioners, if reappointed, and their new terms were limited to the duration of their present ones.

The conference substitute (section 104 and section 201) retains the Senate language, including the provision for bipartisanship, but deletes the reference to technical qualifications for membership. The conferees do not intend, by this deletion, to de-emphasize the importance of qualifications for members in various technical areas, but believe that the President should have discretion in making appointments.

The conference substitute also deletes the provision for placement of executive and administrative functions in the Chairman. The conferees believe that the duties and responsibilities of the Chairman and the members, and the administrative arrangements, as provided in this Act, are fully adequate to effectuate its purposes.

TRANSFERS TO COMMISSION

The Senate amendment (section 201(g)) transferred all the licensing and related regulatory functions of the AEC to the new Commission. The House bill had no comparable language since, in the House bill, the Commission was not abolished and recreated, so transfers were not necessary.

Additionally, the Senate amendment (subsection 201(h)) transferred to the Commission three named units: the Advisory Committee on Reactor Safeguards, the Atomic Safety and Licensing Board Panel, and the Atomic Safety and Licensing Appeal Panel; and all personnel primarily responsible for research related to confirmatory assessment of the safety of licensed reactors, with the exception of such personnel as the OMB Director determined to be necessary to assist in reactor development research.

The conference substitute (subsections 201(f) and 201(g)) follows the Senate language with modifications. Of the three units transferred by name, only the Advisory Committee on Reactor Safeguards is specifically named in the Atomic Energy Act. The Atomic Safety and Licensing Board Panel and the Atomic Safety and Licensing Appeal Panel were created by the Commission under the authority of the Act. The conference substitute provides for the transfer of the functions of the Licensing Board Panel and Licensing Appeal Panel rather than for their transfer as entities. Otherwise, the transfer could be interpreted as giving the Commission-created offices statutory status not now provided by the Atomic Energy Act.

The conferees believe that the Commission should have flexibility under its statutory authority in deciding how such units should be composed and modified from time to time. Since the Licensing Board Panel and Licensing Appeal Panel perform necessary functions, it is expected that they will be re-established in the Commission and continue to perform as in the past. In the event that the Commission decides to abolish either or both the Licensing Board Panel and the

Licensing Appeal Panel, the Commission would be required, under the conference substitute, to notify the Congress in advance.

The conference substitute modifies the Senate language with respect to transfer of research personnel from the AEC to the new Commission to state in more positive terms the responsibility of the Director of the Office of Management and Budget to determine the proper allocation of research personnel as between ERDA and the Commission. The conferees expect that he will give due regard to the needs and responsibilities of each, and to the availability of additional personnel with the requisite skills and training who may be recruited for the performance of research services in each agency. The conferees do not want ERDA to be "raided" for research personnel who otherwise are needed in developmental work. Both regulatory and developmental research functions are essential and should be weighed carefully by OMB. This matter is discussed further below under "Commission Research Activities."

LICENSING OF ERDA FACILITIES

Both the House bill (section 202) and the Senate amendment (section 202) provided for licensing of certain ERDA facilities. These were to include demonstration liquid metal fast breeder reactors (LMFBR), other demonstration reactors, and storage facilities for high-level radioactive wastes. The House bill but not the Senate amendment excepted from such licensing, demonstration reactors and waste-storage facilities now in existence, under construction, or authorized or appropriated for by the Congress on the effective date of the Act. The Senate amendment but not the House bill excepted from licensing, demonstration reactors, other than the LMFBR, which are in existence on the effective date of this Act. The Senate amendment, but not the House bill, extended the licensing requirement to "retrievable surface storage facilities" and other facilities expressly authorized for long-term storage of high-level radioactive wastes generated in ERDA facilities but not used in connection with research and development.

The conference substitute (section 202) incorporates the Senate language with modifications to make it clear that licensing does not apply to facilities preceding the demonstration phase. Only demonstration reactors would be licensed under section 202. Such demonstration reactors have been specifically authorized by legislation. They represent the last stage in development of given reactors and are intended to demonstrate practical value for industrial or commercial applications.

Under the demonstration program, Government and private resources have been jointly contributed to particular demonstration projects. Reactors, licensed, constructed and operated under the AEC's program have included the San Onofre Nuclear Generating Station (involving, among others, Southern California Edison Company); the La Crosse Boiling Water Reactor (involving, among others, the Dairyland Power Cooperative); and the Yankee Nuclear Power Station (involving, among others, Yankee Electric Power Company).

Reactors under development prior to the demonstration stage would not be subject to licensing. Such research and development reac-

tors usually are characterized as experimental, research, and test reactors. These reactors are distinguishable from demonstration reactors because their purpose is to develop or test reactor concepts, or the safety and workability of systems or components individually or as part of the overall reactor system. These facilities may be used for such purposes as irradiation testing of fuels and material (e.g., Experimental Breeder Reactor No. 2); irradiation, testing, and evaluating fuels, materials, and components associated with LMFBR development (e.g., Fast Flux Test Facility, Liquid Metal Engineering Center); and safety-related accident experiments (e.g., Loss of Fluid Test Facility, Power Burst Facility).

In connection with licensing of ERDA facilities used primarily for the receipt and storage of high-level radioactive wastes resulting from licensed activities, the conference substitute follows the Senate language (subsection 203(3)) by deleting that portion of the House language (subsection 202(3)) relating to facilities "in existence, under construction, or authorized or appropriated for by the Congress, on the date this Act becomes effective." The deletion is made because there are no such facilities.

The conference substitute also retains the Senate language with respect to licensing of "retrievable surface storage facilities" and other facilities for long-term storage of high-level radioactive waste. Such facilities are not now in existence but will be developed in the near future for long-term, possibly permanent, storage of high-level radioactive wastes, including wastes from the licensed sector.

COMMISSION RESEARCH ACTIVITIES

In assigning licensing and related regulatory functions to the Commission, the House bill (section 203) provided that the Commission could engage in, or contract for, research deemed necessary for the discharge of its functions and that ERDA and other Federal agencies were to cooperate with the Commission in furnishing such services on a reimbursable basis.

The Senate amendment (section 203) provided for an Office of Nuclear Safety Research, to be headed by a Director appointed and removable by the Commission. The provisions relating to Federal agency cooperation were similar to the House bill. The Senate amendment stipulated that ERDA activities in safety research would not in any way be limited by the provisions applying to the Commission.

The conference substitute (section 205) incorporates the Senate language with modifications to conform it to the organizational and related provisions which place the functions in the Commission for delegation to component units, and which provide for coordination and direction by an Executive Director for Operations, while insuring that directors may report directly to the Commission when necessary in fulfillment of their responsibilities.

In providing for an Office of Nuclear Regulatory Research, the conferees wish to make it clear that this Office will be responsible for such research as is necessary for the effective performance of the Commission's licensing and related regulatory functions. The research aspect of such functions may be characterized as confirmatory assessment, relating to the safe operation and the protection of commercial

reactors, other facilities, and materials subject to regulations, licensing, and inspection by the Commission. This means that the Commission would have "an independent capability for developing and analyzing technical information related to reactor safety, safeguards and environmental protection in support of the licensing and regulatory process."¹

In keeping with the concept of confirmatory assessment, it is not intended that the Commission build its own laboratories and facilities for research and development or try to duplicate the research and development responsibilities of ERDA. The Commission will draw upon ERDA and other Federal agencies for research findings and such assistance as may be needed in developing capabilities for confirmatory assessment, and as may be needed otherwise in performing its functions.

In order to maintain a proper distinction and balance between the research and development which ERDA will perform and the confirmatory assessment which the Commission will perform, the conferees make these additional observations.

The regulatory agency should not be inhibited in any way from access to all data required to assess the safety of a license application or the operation of a licensed facility. Physical access to research and development activities and to construction and operation activities must be available to the regulatory agency. If the license application is inadequate in any respect considered significant by the regulatory agency, the license is refused.

It would be a serious mistake, however to make a regulatory agency responsible for the performance of research that goes beyond the need for confirmatory assessment. Indeed, to exceed these bounds creates a conflict of interest. The regulatory agency should never be placed in a position to generate, and then have to defend, basic design data of its own. The regulatory agency must insist on the submission of all of the data required to demonstrate the adequacy of the design contained in a license application or amendments thereto. This requires professional competence in the regulatory agency to make such determinations as whether any substantive data are lacking or whether experimental or analytical data provided by an applicant or licensee are professionally adequate.

As with research, the regulatory agency need not and should not perform process development, develop construction procedures or designs, or conduct quality control work (which is the responsibility of the licensee or vendor), but must have the professional competence and means to evaluate and assess all data and procedures to determine the adequacy of a license submission or a licensed operation in all of these respects. The regulatory agency should not assume any part of the burden of the applicant to prove the adequacy of a license application.

COMMISSION ORGANIZATION

The conference substitute (sections 203, 204, and 205) follows the Senate language with modifications in providing three co-equal administrative or operating units titled, respectively, the Office of Nu-

¹ Testimony of Dixy Lee Ray, Chairman of the Atomic Energy Commission, at hearings before a subcommittee of the Committee on Government Operations, House of Representatives, 93rd Cong., 1st Sess., on H.R. 11510, "Energy Reorganization Act of 1973," November 1973, p. 157.

clear Reactor Regulation, the Office of Nuclear Material Safety and Safeguards, and the Office of Nuclear Regulatory Research (discussed above). Each of these components will be headed by a Director at executive level IV. Each of these Directors will perform such functions as the Commission shall delegate in the areas specified in the Act and indicated by the titles of the respective units.

Generally, the organizational arrangements contemplate that of the three above-named components, one component will be concerned with licensing and related regulatory activities within the boundaries of the nuclear reactor, and another with materials and safeguards outside such boundaries, while the third will conduct and support research contributory to the needs and purposes of the other two and of the Commission as a whole.

This arrangement will provide ample flexibility in the Commission to devise the most effective administrative arrangements within its own organization and at the same time give due and proper emphasis to functions which are vital to the public health and safety and the safe and efficient operation of nuclear power plants and other licensed facilities.

The conference substitute (section 209) follows the House language in providing for an Executive Director of Operations. The Act does not specify his functions, leaving that determination to the Commission's discretion and judgment. However, it is expected that the Executive Director for Operations will be the coordinating and directive agent below the Commission for the effective performance of the Commission's day-to-day operational and administrative activities. He will coordinate and direct in behalf of the Commission, the operating and administrative units.

At the same time, the conference substitute provides that the head of each component provided in the conference substitute shall be able to communicate with and report directly to the Commission itself whenever he deems necessary to carry out his responsibilities. In this way, the conferees make it clear that the Executive Director for Operations will not be able to suppress or limit information needed for the Commission's discharge of its own collective responsibilities.

The conferees assume that the security agency feasibility report, required by section 204(b)(2)(C) of the Act, will be prepared initially by the Director of the Office of Nuclear Material Safety and Safeguards.

PENALTIES FOR NON-COMPLIANCE

The Senate amendment (section 205) established civil and criminal penalties for failure of company officers or employees to report (1) lack of compliance with rules and regulations of the Commission, or (2) potentially hazardous defects in nuclear facilities, activities, or components. These penalties would apply to any person having information on the subject who was a director, officer, or employee of any firm which constructed, owned, operated, or supplied the components of any facilities or activities licensed under the Atomic Energy Act.

The conference substitute (section 206) retains the Senate language with modifications to eliminate the provision for criminal penalties, making only civil penalties applicable in amounts as provided by section 234 of the Atomic Energy Act; limits the liability to "responsible" officers of the companies that might be involved; and substitutes the

term "consciously" for "willfully", the latter term being more applicable to a criminal act.

Included is an authorization to the Commission to conduct reasonable inspection and other enforcement activities to insure compliance. Generally, this section is directed toward assuring that the Commission has prompt information concerning defects in major components of facilities subject to licensing which could create a substantial safety hazard. The Commission is required to adopt regulations promptly, with a view to defining the types of defect required to be reported relating to manufacture, assembly, installation, and operation. This provision will enable Commission agents and employees to enter business premises and make such inspections as are necessary under regulations promulgated by the Commission.

ASSISTANCE TO PARTIES IN COMMISSION PROCEEDINGS

The Senate amendment provided for three types of assistance to parties in Commission proceedings:

Section 206 required the Commission to give support to parties in Commission proceedings by providing technical assistance and making available studies and reports prepared, or to be prepared, by or for the Commission, ERDA, or any Federal agency. These were made subject to existing laws regarding public disclosure. The Commission was to determine whether the studies were reasonably necessary for the party to present his position in the proceeding and were in the public interest. The Commission was to fund the assistance and seek reimbursement, except where the party was not financially capable of providing it.

Section 209 amended the Freedom of Information Act to authorize public disclosure of Commission records comprising interagency and intra-agency memoranda or letters and trade secrets or confidential commercial or financial information relating to safety. Proprietary information would be protected if the Commission, after notice and hearing, determined that irreparable injury would be done to the competitive position of the person from whom the information was obtained.

Title V (section 501) provided that the Commission should reimburse parties in Commission proceedings for reasonable attorneys' fees. The Commission was to set a maximum amount allowed for each proceeding. The amounts paid were to be based upon the extent to which the party contributed to the development of facts, issues, and arguments relevant to the proceeding, and upon the party's ability to pay his own expenses.

The conferees agreed to delete these sections. The deletion of title V is in no way intended to express an opinion that parties are or are not now entitled to some reimbursement for any or all costs incurred in licensing proceedings. Rather, it was felt that because there are currently several cases on this subject pending before the Commission, it would be best to withhold Congressional action until these issues have been definitively determined. The resolution of these issues will help the Congress determine whether a provision similar to title V is necessary since it appears that there is nothing in the Atomic Energy Act, as amended, which would preclude the Commission from reimbursing parties where it deems it necessary.

ABNORMAL OCCURRENCES REPORTS

The Senate amendment (section 207) required the Commission to submit quarterly reports to the Congress on abnormal occurrences at any utility or facility licensed under the Atomic Energy Act. Such information was to be disseminated to the public within five days after information of such an occurrence was received.

The conference substitute (section 208) retains the Senate language with modifications to make it clear that the Commission will determine which abnormal occurrences are significant enough to be reported. Also, the Commission is given 15 days instead of five days to disseminate information to the public.

The conference substitute defines an abnormal occurrence as an unscheduled incident or event which the Commission determines to be significant from the standpoint of public health or safety. Also, the reference to "activity" is eliminated since the abnormal occurrences are associated with facilities. However, special nuclear or other materials or high-level radioactive wastes in transit to or from a licensed facility would be included in the term abnormal occurrence, being "associated" with a licensed facility.

The Commission's determinations under this section will be subject to judicial review under the administrative procedure provisions of title V, United States Code.

ADDITIONAL OFFICERS FOR COMMISSION

The Senate amendment (subsection 208(a)) provided for a Director of Nuclear Reactor Safety. This language is deleted since provision is made in subsection 203(a) for a Director of Nuclear Reactor Regulation.

The Senate amendment (subsection 208(b)) but not the House bill provides for nine additional officers (executive level V) for the Commission.

The conference substitute (subsection 209(c)) authorizes five additional officers at executive level V for the Commission, recognizing that the Commission has important and complex duties to perform in regulating nuclear energy industries. These officers will be considered career officers in the same sense as discussed in connection with other additional officers at executive level V for ERDA.

AUTHORIZATION OF APPROPRIATIONS

The House bill (section 304) provided that appropriations under the Act shall be subject to annual authorization. The Senate amendment (section 305) had an identical provision, but added several requirements:

(1) At least 7% of amounts appropriated for non-defense programs of ERDA would be available for each of the functions assigned to each of the non-defense Assistant Administrators provided in subsection 102(d) of the Act. This requirement was to obtain until the Congress enacted legislation on research and development policy.

(2) Authorization for appropriations to the Commission was to reflect the need for effective licensing and other regulation of the nuclear power industry in relation to its growth.

(3) The Administrator was to provide the Congress with a range of program options and corresponding funding levels within each of the six program areas headed by the Assistant Administrators.

The conference substitute (section 305) deletes the reference to 7% allocation since the House and Senate both have passed legislation on research and development policy (S. 1283 and H.R. 13565). Also deleted is the reference to program options and corresponding funding levels. The conferees believe that requests for such program options should be handled by the committees of legislative and funding jurisdiction.

ANNUAL REPORTS

Both the House bill (section 306) and the Senate amendment (section 307) provided for annual reports by ERDA on its activities to the President and the Congress. Reports by the Commission were not specified in the House bill, since such reports would be required under applicable provisions of the Atomic Energy Act. The Senate amendment specified that the Commission submit annual reports. The Senate amendment also differed from the House bill in specifying in some detail information to be included in both the ERDA and Commission reports.

The conference substitute (section 307) retains the Senate language, with modifications to permit more flexibility in the reporting requirements.

The conferees, in agreeing to omit a requirement in the Senate amendment that the ERDA annual report include a description of activities to promote energy efficiency, wish to make it clear that this is one of the important activities to be covered in the report.

COMPTROLLER GENERAL AUDIT OF COMMISSION

Both the House bill (section 305) and the Senate amendment (section 306) specified that the Comptroller General's audit functions under the Atomic Energy Act would apply to ERDA and the Commission. The Senate amendment added language requiring the Comptroller General to report to the Congress within 54 to 60 months after the effective date of the Act on an evaluation of the effectiveness of the Commission's activities, with copies of the report to be furnished to the chairmen, respectively, of the Commission, the Senate Committee on Government Operations, the House Committee on Government Operations, and the Joint Committee on Atomic Energy.

The Senate language, with the conforming changes, is retained in the conference substitute (section 306), except that reports are to be made to the Congress rather than to the chairmen of the designated committees. Considering that many committees of the Congress have legislative and jurisdictional oversight responsibilities which involve one aspect or another of energy affairs, the conferees believe it is more appropriate to have the report referred to the Congress as a whole. Of course, the Comptroller General, within his general audit responsibilities, can report to the Congress at any time.

NON-NUCLEAR RESEARCH AND DEVELOPMENT

The Senate amendment included a title (title VI) on non-nuclear research and development, incorporating in large part, with some modifications, the provisions of S. 1283, which passed the Senate on December 7, 1973.

Since, as noted above, the House has passed a companion bill (H.R. 13565), and both bills are to be considered in conference by the House and Senate Committees on Interior and Insular Affairs, the conferees see no need for inclusion of title VI in the conference substitute.

DAYLIGHT SAVING TIME AMENDMENT

The Senate amendment (title VII) amended the Emergency Daylight Saving Time Energy Conservation Act of 1973 in several particulars.

This title is deleted in the conference substitute. Legislation on this subject has been reported by other committees and passed by the House and Senate.

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